

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARQUIS HAIRSTON,

Petitioner,

v.

CASE NO. 2:09-CV-00978

JUDGE MARBLEY

MAGISTRATE JUDGE ABEL

PHILLIP KERNS, WARDEN,

Respondent.

OPINION AND ORDER

On August 19, 2011, final judgment was issued dismissing the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter is before the Court on Petitioner's September 19, 2011, request for a certificate of appealability. For the reasons that follow, Petitioner's request for a certificate of appealability, Doc. 21, is **DENIED**.

As his sole ground for habeas corpus relief, Petitioner asserts that his sentence of 134 years incarceration on three aggravated robberies violates the Eighth Amendment. This Court dismissed that claim on the merits.

When a claim has been denied on the merits, a certificate of appealability may issue only if the petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This standard is a codification of *Barefoot v. Estelle*, 463 U.S. 880 (1983). *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). To make a substantial showing of the denial of a constitutional right, a petitioner must show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were "adequate to deserve encouragement to proceed further." *Id.* (citing *Barefoot*, 463 U.S., at 893, and n.4).

The Court is not persuaded that Petitioner has met this standard here. Petitioner's request for a certificate of appealability, Doc. 21, therefore is **DENIED**.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge